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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
PATEL, HARESH N	

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/710,172	GARCEA ET AL.	
	Examiner	Art Unit	
	Haresh Patel	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9 and 11-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8 and 10-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 November 2000* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/26/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-9 and 11-16 are presented for examination. Claims 10, 17-42 are cancelled.

Response to Arguments

2. Applicant's arguments filed 6/27/2005 have been fully considered but they are not persuasive. Therefore, rejection of claims 1-9, 11-16 is maintained.

Applicant argues (1), "cited reference, i.e., Teegan et al., 6,748,555 (Hereinafter Teegan) does not suggest or disclose or teach limitations, "one or more states of a plurality of member machines configured as an array of machines, a unified result set indicative of the system-wide state of the array of machines or an interface for providing the unified set result to a requestor as if the array of machines were a singular machine". The examiner respectfully disagrees in response to applicant's arguments. These limitations have been newly added (see amended claims). The cited reference, Teegan, discloses amended limitations, a state of a plurality of member machines (e.g., paragraphs 38, 64, 65, 75) configured as an array of machines (e.g., paragraphs 2 and 4), a unified result set indicative of the system-wide state (e.g., paragraphs 6, 10) of the array of machines (e.g., paragraphs 38, 64, 65, 75), an interface (e.g., paragraphs 38, 64, 65, 75) for providing the unified set result to a requestor as if the array of machines were a singular machine (e.g., paragraphs 38, 64, 65, 75), as claimed. Also, the specification, page 21, lines 21-27, clearly states, "What has been described above are preferred aspects of the present invention. It is, of course, not possible to describe every conceivable combination of components or methodologies for purposes of describing the present invention, but one of ordinary skill in the art will recognize that many further combinations and permutations of the present invention are

possible. Accordingly, the present invention is intended to embrace all such alterations, modifications and variations that fall within the spirit and scope of the appended claims". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Applicant argues (2), "a declaration under 37 C.F.R. 1.131 is filed to overcome cited reference, i.e., Salzberg et al., U. S. Publication 2003/0086536, KPMG Consulting Inc. (Hereinafter Salzberg-KPMG), hence the rejection should be withdrawn". The examiner respectfully disagrees in response to applicant's arguments. Please refer below response to the declaration under 37 C.F.R. 1.131, which is insufficient and does not overcome cited reference, i.e., Salzberg et al., U. S. Publication 2003/0086536, KPMG Consulting Inc. Therefore, the rejection is maintained.

Response to 37 C.F.R. 1.131

3. The 37 C.F.R. 131 filed on 6/27/2005 and 5/26/2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the Salzberg et al., U. S. Publication 2003/0086536, KPMG Consulting Inc., (Hereinafter Salzberg-KPMG), June 26, 2000 reference.

4. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Salzberg-KPMG reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). Analysis of Exhibits A-C, dated

February 26, 2000 and/or June 3, 2000, fail to show the conception of the invention as claimed, i.e., independent claim limitations, a system for gathering and aggregating operational metrics comprising: a plurality of member machines configured to form an array of machines, the member machine having a gathering and aggregation system to gather operational metric data from the plurality of member machines and aggregate the operational metric data into a unified result set, wherein the operational metrics indicate a state of the member machines and the unified result set is indicative of the system-wide state of the array of machines, an interface for providing the unified result set to a requestor as if the array of machines were a singular machine, and the limitations of the claimed dependent claims. Also, the declaration does not contain attachments of both, the contents of exhibits A-C implemented on February 26, 2000, and the contents of exhibits A-C implemented on June 3, 2000, as stated in the declaration. It is not apparent whether the contents of supplied exhibit A, exhibit B and exhibit C were all implemented on February 26, 2000 or on June 3, 2000.

5. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Salzberg-KPMG reference to either a constructive reduction to practice or an actual reduction to practice. Considering the evidence submitted, i.e., the exhibits A-C, for the timeline dated February 26, 2000 to June 3, 2000, and June 3, 2000 to June 26, 2000, it appears that the applicant's invention fails to establish diligence prior to the effective dates of the Salzberg-KPMG reference. MPEP 715.07(a), "Diligence", clearly states the following:

> Where conception occurs prior to the date of the reference, but reduction to practice is afterward, it is not enough merely to allege that applicant or patent owner had been diligent. *Ex parte Hunter*, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat. 1889). Rather, applicant must show evidence of facts establishing diligence.

> In determining the sufficiency of a 37 CFR 1.131 affidavit or declaration, diligence need not be considered unless conception of the invention prior to the effective date is clearly established, since diligence comes into question only after prior conception is established. *Ex parte Kantor*, 177 USPQ 455 (Bd. App. 1958).

> What is meant by diligence is brought out in *Christie v. Seybold*, 1893 C.D. 515, 64 O.G. 1650 (6th Cir. 1893). In patent law, an invertor is either diligent at a given time or he is not diligent; there are no degrees of diligence. An applicant may be diligent within the meaning of the patent law when he or she is doing nothing, if his or her lack of activity is excused. Note, however, that the record must set forth an explanation or excuse for the inactivity, the USPTO or courts will not speculate on possible explanations for delay or inactivity. See *In re Nelson*, 420 F.2d 1079, 164 USPQ 458 (CCPA 1970). Diligence must be judged on the basis of the particular facts in each case. See MPEP § 2138.06 for a detailed discussion of the diligence requirement for proving prior invention.

6. Applicant has failed being diligent prior to the June 26, 2000, and the effective date of the Salzberg-KPMG. Applicant has failed to provide clarification for the unaccounted time period before June 26, 2000, i.e., between February 26, 2000 and June 3, 2000, between June 3, 2000 and June 26.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Amended claims 1-9 and 11-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-25 of Murstein et al, U.S.

Patent No. 6,789,046. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent teaches all the limitations as disclosed such that the interpretation of a performance system for a plurality of members configured as an entity comprising a performance monitor system monitoring member specific metrics, a time aggregation component, and a gathering and aggregation system gathering performance metric data from the plurality of members and aggregate the performance metric data into a unified result set and returning the unified result set to the requester is similar to a system for gathering and aggregating operational metrics. The claimed subject matter of claims 1-25 of Murstein et al, U.S. Patent No. 6,789,046 does not specifically mention about using an interface for providing the unified result set. However, it is well known in the art; for example, Davis III et al., Novell, Inc, 5,870,739 (Hereinafter Davis-Novell) teaches the concept of using an interface for providing the unified result set (e.g., paragraphs 96 and 117). With Davis-Novell's teachings it would be obvious to one of ordinary skill in the art to include the concept of using an interface for providing the unified result set with the claimed subject matter of claims 1-25 of Murstein et al, U.S. Patent No. 6,789,046.

8. Amended claims 1-9 and 11-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-66 of Teegan et al, U.S. Patent No. 6,748,555. Although the conflicting claims are not identical, they are not patentably distinct from each other because the patent teaches all the limitations as disclosed such that the interpretation of a software management system for monitoring comprising a set of monitored software objects, usage of an object operation monitor, supporting a client, to gather and

combine events information in the set, to handle an operational management metric, publishing and subscribing information related to the events, analyzing metric information, grouping the events information into a set is similar to a system for gathering and aggregating operational metrics. The claimed subject matter of claims 1-66 of Teegan et al, U.S. Patent No. 6,748,555 does not specifically mention about using an interface for providing the unified result set. However, it is well known in the art; for example, Davis III et al., Novell, Inc, 5,870,739 (Hereinafter Davis-Novell) teaches the concept of using an interface for providing the unified result set (e.g., paragraphs 96 and 117). With Davis-Novell's teachings it would be obvious to one of ordinary skill in the art to include the concept of using an interface for providing the unified result set with the claimed subject matter of claims 1-25 of Teegan et al, U.S. Patent No. 6,748,555.

Drawings

9. New corrected drawings are required in this application because the figures, dated 11/10/200 does not show amended limitations, "a plurality of member machines configured to form an array of machines, wherein the operational metrics indicate one or more of the member machines and the unified result set is indicative of the system-wide state of the array of machines, an interface for providing the unified result set to a requestor as if the array of machines were a singular machine". Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The amended replacement

drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

10. Claim 1 is objected to because of the following informalities:

Claim 1 mentions, "the member machines", which should be "the plurality of member machines".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

11. Claims 1, 2, 6, 12, 13, 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations, "the system-wide state". There is insufficient antecedent basis for this limitation in the claim. Since multiple systems (a system for gathering and aggregating operational metrics, a gathering and aggregating system (another)) exist in the claim,

it is not clear which system these limitations refer to. Also, it is not clear whether the operational metric data is same as the operational metrics.

Claims 2, 6, 15 and 16 recite the limitations, "the gathering and aggregation system". There is insufficient antecedent basis for this limitation in the claim. Since multiple systems (a system for gathering and aggregating, a gathering and aggregating system (another)) exist in the claim, it is not clear which system these limitations refer to.

Claims 12 and 13 recite the limitations, "the operation metric information". There is insufficient antecedent basis for this limitation in the claim. Since multiple operation metric information (operational metrics, operational metric data (another)) exist in the claim, it is not clear which operation metric information these limitations refer to.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Amended claims 1-9 and 11-16, are rejected under 35 U.S.C. 102(e) as being anticipated by Salzberg et al. 2003/0086536, U. S. Publication 2003/0086536, KPMG Consulting Inc (Hereinafter Salzberg-KPMG).

14. As per claims 1, 3-5, Salzberg-KPMG teaches a system (e.g., figures 8, 14, 15) for gathering and aggregating operational metrics (e.g., paragraphs 57, 88, 92,) comprising:

a plurality of member machines configured to form an array of machines (e.g., paragraphs 150-155),

the member machine having a gathering and aggregation system (e.g., figures 8, 14, 15, paragraphs 105, 150) to gather operational metric data from the plurality of member machines (e.g., paragraphs 151) and aggregate the operational metric data into a unified result set (e.g., paragraph 138), wherein the operational metrics indicate a state of the member machines (e.g., paragraphs 70, 71, 114, 122) and the unified result set is indicative of the system-wide state (e.g., paragraphs 70, 71, 114, 122) of the array of machines (e.g., paragraphs 150-155);

an interface (e.g., paragraph 28, 36, 78) for providing the unified result set to a requestor (e.g., paragraphs 22, 70, 71, 114, 122) as if the array of machines (e.g., paragraphs 22, 70, 71, 114, 122) were a singular machine (e.g., paragraphs 22, 70, 71, 114, 122),

a metric monitor system for each of the plurality of member machines (e.g., figures 8, 14, 15, paragraphs 139, 105), the metric monitoring system monitoring member specific performance metrics (e.g., figures 8, 14, 15, paragraphs 139, 105) and employing a time aggregation component to aggregate member specific performance metrics over time (e.g., figures 8, 14, 15, paragraphs 139, 105),

the time aggregation component aggregating member specific performance metrics data into data of larger time periods and larger resolutions (e.g., paragraphs 409, 412, 92, 140), by taking one of an average, a minimum, a maximum, a last and a weighted average of performance metrics data of a first time period (e.g., paragraphs 92-94) and first resolution to evaluate

performance metric data of a consecutive time period and consecutive resolution (e.g., paragraphs 411 – 414).

15. As per claim 2, Salzberg-KPMG teaches the claimed limitations rejected above. Salzberg-KPMG also teaches the following:

each of the plurality of member machines have the gathering and aggregation system such that the unified result set can be gathered and aggregated from any of the plurality of member machines (e.g., paragraphs 62 and 64).

16. As per claims 6-8, Salzberg-KPMG teaches the claimed limitations rejected under claim 1. Salzberg-KPMG also teaches the following:

a performance metric aggregation component (e.g., figures 8, 14, 15, paragraphs 105, 150) to gather and aggregate performance metric data values of a particular time period and resolution (e.g., paragraphs 409 - 412, 92) from the plurality of member machines based on a time period requested by the requestor (e.g., paragraphs 140, 60),

aggregate data performance values having similar data times to form the unified result set over the particular time period and time resolution (e.g., paragraphs 140 - 409, 412),

the performance metric aggregation component aggregating member specific performance metrics data into a unified result set by evaluating a single data value for data points of similar data times by taking one of an average, a minimum, a maximum, a last and a weighted average data of similar data times (e.g., paragraphs 92-94, 411 – 414).

17. As per claim 9, Salzberg-KPMG teaches the claimed limitations rejected above. Salzberg-KPMG also teaches the following:

the plurality of member machines logging member specific operation metrics to a data store corresponding to that particular member (e.g., paragraphs 105, 502).

18. As per claim 11, Salzberg-KPMG teaches the claimed limitations rejected above. Salzberg-KPMG also teaches the following:

the requestor being one of an external process, an internal process, an external consumer, a user interface and another entity (e.g., paragraph 36).

19. As per claim 12, Salzberg-KPMG teaches the claimed limitations rejected above. Salzberg-KPMG also teaches the following:

the member machine being configurable to receive the configuration setting defining the operational metric information to be logged and replicating the configuration setting to the plurality of member machines (e.g., paragraphs 105, 502).

20. As per claim 13, Salzberg-KPMG teaches the claimed limitations rejected above. Salzberg-KPMG also teaches the following:

any of the plurality of member machines are configurable to receive the configuration setting defining the operational metric information to be logged (e.g., paragraphs 36, 105, 502).

21. As per claim 14, Salzberg-KPMG teaches the claimed limitations rejected above. Salzberg-KPMG also teaches the following:

the operational metric data being at least one of performance metric data, event metric data., status metric data and health metric data (e.g., paragraph 563).

22. As per claim 15, Salzberg-KPMG teaches the claimed limitations rejected under claim 1. Salzberg-KPMG also teaches the following:

the gathering and aggregation system aggregate valid operational metric data (e.g., paragraphs 529 – 532, page 74) and compensate for invalid operational metric data (e.g., paragraph 543, page 75 – paragraph 547, page 76).

23. As per claim 16, Salzberg-KPMG teaches the claimed limitations rejected above. Salzberg-KPMG also teaches the following:

the gathering, and aggregation system being further providing a unified result set of operational metric data for a singe member (e.g., paragraphs 22, 70, 71, 114, 122).

24. Amended claims 1-9, 11-16, are rejected under 35 U.S.C. 102(e) as being anticipated by Teegan et al. 6,748,555 (Hereinafter Teegan).

25. As per claim 1, Teegan teaches the following:

a system for gathering and aggregating operational metrics (e.g., abstract, paragraphs 16 – 20, summary of invention), comprising

a plurality of member machines configured to form an array of machines (e.g., paragraphs 2 and 4, detailed description);

the member machine having a gathering (e.g., paragraphs 38, 64, 65, 75) and aggregation system to gather operational metric data (e.g., paragraphs 38, 64, 65, 75) from the plurality of member machines and aggregate the operational metric data into a unified result set (e.g., paragraphs 38, 64, 65, 75), wherein the operational metrics indicate a state of the member machines (e.g., paragraphs 38, 64, 65, 75) and the unified result set is indicative of the system-wide state (e.g., paragraphs 6, 10) of the array of machines (e.g., paragraphs 38, 64, 65, 75) and

an interface (e.g., paragraphs 38, 64, 65, 75) for providing the unified result set to a requestor as if the array of machines were a singular machine (e.g., paragraphs 38, 64, 65, 75).

26. As per claims 2-9, 11-16, Teegan teaches the following:

each of the plurality of member machines have the gathering and aggregation system such that the unified result set can be gathered and aggregated from any of the plurality of member machines (e.g., col., 5, lines 27 – 46),

a metric monitor system for each of the plurality of member machines, the metric monitoring system monitoring member specific performance metrics and employing a time aggregation component to aggregate member specific performance metrics over time (e.g., col., 11, lines 1-20),

the time aggregation component being further operable to aggregate member specific performance metrics data into data of larger time periods and larger resolutions (e.g., col., 11, lines 1-20), by taking one of an average, a minimum, a maximum, a last and a weighted average

of performance metrics data of a first time period and first resolution to evaluate performance metric data of a consecutive time period and consecutive resolution (e.g., paragraphs 33, 59, 76),

the gathering and aggregation system further comprising a performance metric aggregation component adapted to gather and aggregate performance metric data values of a particular time period and resolution from the plurality of member machines based on a time period requested by a requestor (e.g., col., 15, line 28 – col., 16, line 57),

the performance metric aggregation component being aggregating data performance values having similar data times to form the unified result set over the particular time period and time resolution (e.g., col., 11, lines 1-20),

the performance metric aggregation component aggregating member specific performance metrics data into a unified result set by evaluating a single data value for data points of similar data times by taking one of an average, a minimum, a maximum, a last and a weighted average data of similar data times (e.g., paragraphs 33, 59, 76),

the plurality of member machines logging member specific operation metrics to a data store corresponding to that particular member (e.g., col., 8, lines 38 – 55),

the requestor being one of an external process, an internal process, an external consumer, a user interface and another entity (e.g., col., 13, lines 44 – 65),

the member machine being configurable to receive the configuration setting defining the operational metric information to be logged and replicating the configuration setting to the plurality of member machines (e.g., col., 8, lines 38 – 55),

any of the plurality of member machines are configurable to receive the configuration setting defining the operational metric information to be logged (e.g., col., 8, lines 38 – 55),

the operational metric data being at least one of performance metric data, event metric data., status metric data and health metric data (e.g., abstract),

the gathering and aggregation system aggregating valid operational metric data and compensating for invalid operational metric data (e.g. paragraphs 90 – 94).

the gathering, and aggregation system being further providing a unified result set of operational metric data for a singe member (e.g., col., 3, line 24 – col., 4, line 16).

Conclusion

27. The prior art made of record (forms PTO-892 and applicant provided IDS cited arts) and not relied upon is considered pertinent to applicant's disclosure.

Hendrickson et al., U. S. Publication 2002/0069037, June 6, 2002, also teaches a system for gathering and aggregating operational metrics and a plurality of members configured as an entity.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Haresh Patel

September 12, 2005

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100